

CITY OF DENTON CITY COUNCIL MINUTES

May 23, 2017

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, May 23, 2017 at 1:30 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Pro Tem Bagheri, Council Member Briggs, Council Member Wazny, Council Member Gregory, Council Member Ryan, and Mayor Watts.

ABSENT: Council Member Hudspeth

1. Citizen Comments on Consent Agenda Items

Willie Hudspeth spoke on Consent Items D, E, F, G, and H.

Council Member Hudspeth arrived at the meeting.

2. Requests for clarification of agenda items listed on the agenda for May 23, 2017.

Staff responded to Council requests for clarification on the following items:

Council Member Gregory - Consent Item G, pull Consent Agenda Item H for individual consideration and have a staff presentation

Council Member Ryan – Consent Agenda Item C

Council Member Hudspeth – Consent Agenda Item C

Mayor Watts – Consent Agenda Item D

Council Member Ryan – Individual Consideration Item 6A

3. Work Session Reports

- A. ID 17-567 Receive a funding recommendation report from the Community Development Advisory Committee (CDAC) and the Human Services Advisory Committee (HSAC). Hold a discussion and give staff direction regarding these activities as they are proposed in the 2017 Action Plan for Housing and Community Development.

Barbara Ross, Community Development Manager, stated that the Chairs of the two committees would be presenting recommendations for program funding. These were part of the 2017 Action Plan which was an application to HUD for Block Grant funds and Home Investment Partnership Grants. A problem with the allocation of the funding was that staff had not yet received an exact allocation from HUD. The current funding was included in the documents and if there was a small decrease or increase in the final allocation, the numbers would be adjusted by that amount. Staff would notify Council in an Informal Staff Report about the changes and if Council had concerns, staff would provide more specific information.

Council discussed changes in a plan/flexibility if there was a need to change plans with individual organizations.

Larry Varnes, Chair - Community Development Advisory Committee, presented the recommendation of the Committee for funding organizations. The amount of available funding

was the same as last year but did not cover all of the funding requests. He reviewed the process of determining funding for the various organizations.

Council discussed the Homebuyer Assistance Program in terms of housing in the allocated price range.

Sheryl English, Chair - Human Services Advisory Committee, presented the recommendations of the Committee for funding allocations. She reviewed the process the Committee used to allocate the funding.

Council discussed the City of Denton Parks and Recreation Program which provided scholarships for children to attend programs at no charge; how the funding was allocated in the budget process; and HMIS funding organization to receive the funds.

- B. ID 17-491 Receive a report, hold a discussion and give staff direction regarding the use of the Prescott property at US 380 and Virginia Street, which is currently owned by Denton Municipal Electric.

Mark Nelson, Director of Transportation, presented the background information on the proposal. He reviewed the location of the property, long-term planning alternative uses for the track and was requesting Council direction on potential options. Public safety benefits, a possible north Denton trail in the area, and a DCTA proposal were presented. He reviewed four scenarios for use of the property.

Council discussion centered on the amount of flood plain on the property; preserving a portion of the property for public safety needs and for citizen usage for trails; a support for Scenario 2; consider a Scenario 5 which would have all of the proposals; concerns for the location of a Fire Station in the area; and concern over the size of the proposed DCTA parking lot.

Consensus of Council to proceed with Scenario 4 which was to hold on to the property as it currently was for future consideration.

- C. ID 17-607 Receive a report, hold a discussion, and give staff direction regarding park turf maintenance and reforestation of parks.

Emerson Vorel, Director of Parks and Recreation, presented information on parks mowing and reforestation practices. There were four separate classes for mowing which were reviewed.

Council discussed integrating the mowing with drainage areas; concerns about mowing during the bird/butterfly migration period; and analysis on contract mowing versus staff mowing.

Consensus of Council was to consider moving some of the mowing classes to Class B and when mowing in Class C don't interfere with bird/butterfly migrations.

Following the completion of the Work Session, the City Council convened in a Closed Meeting to consider the specific item listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 17-649 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Discuss, deliberate and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests out of the Jeremiah Fisher Survey, Abstract No. 421 and the Stephen Hembrie Survey, Abstract No. 643, Denton County, Texas, and generally located in the 3400 and 3900 blocks of Teasley Lane, Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition or condemnation of the real property interests described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (FM 2181 Utility Relocations Project - Meredith - Parcel 17 & VMY Properties, LLC - Parcel 37)

Special Called Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall.

1. **PLEDGE OF ALLEGIANCE**

Troop 755 of the Church of Jesus Christ of the Latter Day Saints lead the Council and members of the audience in reciting the Pledge of Allegiance to the U. S. and Texas flags.

2. **PROCLAMATIONS/PRESENTATIONS**

- A. ID 17-652 Mental Health Awareness Month

Mayor Watts presented the proclamation for Mental Health Awareness Month.

3. **PRESENTATION FROM MEMBERS OF THE PUBLIC**

- A. Review of procedures for addressing the City Council. B. Receive Scheduled Citizen Reports from Members of the Public.

1. ID 17-647 B.C. Groves regarding the Police Department's refusal to take her complaint.

Ms. Groves was not present at the meeting.

- C. Additional Citizen Reports

1. Marc Moffitt commended Officer Jackson on her handling of an accident he was involved with. He reported on the condition of the police car that responded to the scene. He

recommended that during the budget process for next year more funding be allocated for public safety and public infrastructure. These two items should be a priority in the budget.

2. Robert Donnelly spoke on the Mobility Plan in terms of Mayhill Road. He presented the history of the realignment of the Mayhill and how it affected his property.
3. Willie Hudspeth questioned the Council regarding the number of African American firefighters and why there was no football/soccer field in SE Denton when the money was already appropriated.

4. CONSENT AGENDA

Council Member Gregory motioned, Mayor Pro Tem Bagheri seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item H which was considered separately. On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Resolution R2017-020

- A. ID 17-604 Consider approval of a resolution of the City Council of the City of Denton nominating Mayday Manufacturing Co. to the Office of the Governor, Economic Development and Tourism ("OOGEDT") through the Economic Development Bank ("the Bank") as an Enterprise Project ("Project"); and providing an effective date.

Ordinance No. 2017-149

- B. ID 17-617 Consider adoption of an ordinance of the City of Denton Authorizing an agreement between the City of Denton, Texas and Denton Supportive Housing Pilot, at United Way of Denton County, Inc., for the purpose of care packages; authorizing the expenditure of funds; and providing for an effective date. (\$200)

Ordinance No. 2017-150

- C. ID 17-627 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for Komatsu equipment repair services for the City of Denton Fleet Services department; and providing an effective date (File 6437-awarded to Kirby-Smith Machinery in the three (3) year not-to-exceed amount of \$380,000).

Ordinance No. 2017-151

- D. ID 17-629 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the rental of vans for the City of Denton Parks programs; providing for the expenditure of funds therefor; and providing an effective date (RFP 6433-awarded to CAPPS Rent A Car, Inc. in the three (3) year not-to-exceed amount of \$165,000).

Ordinance No. 2017-152

- E. ID 17-630 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for pavement markers installation for the City of Denton Traffic Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 6358-awarded to Striping Technology, LP in the three (3) year not-to-exceed amount of \$1,500,000).

Ordinance No. 2017-153

- F. ID 17-631 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the purchase of electric utility transformer pads for Denton Municipal Electric to be stocked in the City of Denton Distribution Center; providing for the expenditure of funds therefor; and providing an effective date (RFP 6403-awarded to Anixter, Inc. in the three (3) year not-to-exceed amount of \$230,000).

Ordinance No. 2017-154

- G. ID 17-638 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the approval of a Sixth Amendment to a contract with Oriental Building Services, Inc., for the supply of janitorial services, along with Amendments 1-5, which was originally approved on November 19, 2013, in the amount of \$1,743,714, in order to extend the term of the contract to September 30, 2017 and provide an additional expenditure of funds for that purpose, pursuant to the change order provisions of the Tex. Loc. Gov't Code Sec. 252.048; and providing an effective date. (RFP 5317-providing for an additional expenditure amount of \$250,000, for a total contract award of \$1,993,714).

Ordinance No. 2017-155

- I. ID 17-648 Consider adoption of an ordinance authorizing the City Manager of the City of Denton, Texas ("City") to execute, for and on behalf of the City, an easement purchase agreement ("Agreement"), as attached hereto and made a part hereof as Exhibit "A," for the purchase price of One Hundred Sixty-Three Thousand Six Hundred Twenty-Four Dollars and No Cents (\$163,624.00), and other consideration, as prescribed in the Agreement by and between the City and VMY Properties, LLC providing for the granting to the City of a water and sanitary sewer easement, encumbering a 0.1279 acre tract of land being more particularly described in the Water and Sanitary Sewer Easement, being attached to and made a part of the Agreement, said easement tract being in the Stephen Hembrie Survey, Abstract No. 643, generally located in the 3900 block of Teasley Lane; authorizing the expenditure of funds, providing a savings clause; and providing an effective date. (FM 2181 Utility Relocations Project - Parcel 37)

The minutes listed below were approved.

- J. ID 17-662 Consider approval of the minutes of May 2, 9, and 16, 2017.

The item pulled for separate consideration was considered.

Resolution No. R2017-021

- H. ID 17-645 Consider approval of a resolution by the City of Denton, Texas ("City"), approving a change in the rates of Atmos Energy Corporation, Mid-Tex Division ("Atmos") as a result of a settlement between Atmos and the Atmos Texas Municipalities ("ATM") under the rate review mechanism; finding the rates set by the attached tariffs to be just and reasonable; finding that the meeting complied with the Open Meetings Act; declaring an effective date; and requiring delivery of the resolution to the company and legal counsel; and providing an effective date.

Larry Collister, Deputy City Attorney, provided background information on the resolution including information on the rate review mechanism for Atmos Energy Corporation. Atmos had applied for a proposed system-wide base-rate increase. The options for the proposed base-rate increase were reviewed as well as Denton's options as a member on its own. The likely outcome and financial impact of an appeal for Denton ratepayers was noted. Staff was recommending acceptance of the proposed base-rate increase of \$48 million and approve the resolution as presented.

Council discussed the number of municipalities involved in the ATM; the fact that the cost of appealing or not appealing would still impact the rate payers; the rate increase did not involve the rate of the gas-it involved infrastructure and rate of growth in the service area; and how often Atmos could propose a rate increase.

A Speaker Card was submitted by Deb Armintor who urged Council to vote no on the proposed rate increase.

Council continued discussion on the amount of rate payer increase monthly and/or yearly; when the next series of rate reviews would begin as this one was the last of this agreement; who were the members of the coalition and how did they come into the bargaining unit; the fact that it appeared that there was not a better deal than the \$48 million as on appeal the City would have to pay legal fees and the Railroad Commission did not favor cities; and moving forward form a stronger coalition and work with the consultants in Austin for more favorable legislation.

Additionally, Council questioned future negotiations; whether Denton could settle later with Atmos if the increase were denied at this meeting; have outside counsel share their negotiation process; and change the negotiation process in the future to better serve Denton rate payers.

Council Member Gregory motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Council Member Wazny "aye", Council Member Gregory "aye", Council Member Ryan "aye", and Mayor Watts "aye". Mayor Pro Tem Bagheri "nay", Council Member Briggs "nay", and Council Member Hudspeth "nay". Motion carried with a 4-3 vote.

5. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS

Ordinance No. 2017-156

- A. ID 17-635 Consider adoption of an ordinance of the City of Denton ("City") finding that a public use and necessity exists to acquire fee simple title to a 1.656 acre tract

of land situated in the Alexander Hill Survey, Abstract No. 623, City of Denton, Denton County, Texas ("Property Interests"), for the expansion, construction, maintenance, operation, and improvement of electrical transmission lines, facilities and structures, including substations; authorizing the City to acquire the Property Interests by either agreement or through the use of the power of eminent domain; authorizing the use of power of eminent domain to condemn the Property Interests if an agreement cannot be reached; authorizing the expenditure of funds; making findings; providing a savings clause and an effective date. [Eagle Substation]

Phil Williams, General Manager-DME, provided background information on the property needed for the Eagle Substation. He reviewed an Executive Summary detailing the need for the substation. He presented information on substation spacing, site options, and the history of public meetings on the proposed sites.

Willie Hudspeth submitted a Speaker Card and spoke in opposition.

Jonathan Littmann spoke in opposition.

Council discussed that this location would be for the gas insulated substation and would very different from a regular substation.

Williams provided information on the property location, size and shape of the property and as the motion was being read, Williams read the legal description of the property into the record.

Council Member Gregory motioned: "I move that the City of Denton, after having made the offers required by State law, use the power of eminent domain, if needed, to acquire fee simple to the surface estate, of a 1.656 acre tract generally located at the southeast corner of Eagle Drive and Bernard Street, and being situated in the Alexander Hill Survey, Abstract No. 623, in the City of Denton, Denton County, Texas, and more particularly described on "Exhibit A" to the ordinance now under consideration and on the overhead screen being now displayed to the audience, all of which is for a valid public use necessary to provide the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, including substations, to serve the public and citizens of the City of Denton, Texas." Council Member Wazny seconded the motion.

On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

6. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2017-157

- A. A16-0004d Conduct the second of two readings and consider adoption of an ordinance of the City of Denton annexing approximately 4.7 acre of land, generally located north of Ryan Road, west of FM 2181 (Teasley Lane) and Lake Forest Good Samaritan Village, and east of Country Club Road; providing for a correction to the city map to include the annexed lands; providing for a savings clause and an effective date.

Ron Menguita, Long Range Planning Administrator, presented details on the second reading of the annexation proceeding. He reviewed the proposed site and the annexation schedule.

Mayor Watts read the ordinance caption into the record, "An ordinance of the City of Denton annexing approximately 4.7 acre of land, generally located north of Ryan Road, west of FM 2181 (Teasley Lane) and Lake Forest Good Samaritan Village, and east of Country Club Road, more specifically described in Exhibit "A" and illustrated in Exhibit "B"; providing for a correction to the city map to include the annexed lands; providing for a savings clause and an effective date."

Council Member Ryan motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2017-158

- B. A17-0001 Consider adoption of an ordinance of the City of Denton, Texas, setting a date, time, and place for two public hearings on the proposed annexation of certain properties generally located north of McKinney Street and west of Trinity Road by the City of Denton, Texas, authorizing and directing the City Secretary to publish notice of such public hearings.

Ron Menguita, Long Range Planning Administrator, presented the information on setting the dates for public hearings for a proposed annexation. He reviewed the background information on the voluntary annexation and the annexation schedule.

Council Member Wazny motioned, Council Member Briggs seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2017-159

- C. A17-0004 Consider adoption of an ordinance of the City of Denton, Texas, setting a date, time, and place for two public hearings on the proposed annexation of certain properties generally located north of Brush Creek Road and east of Fort Worth Drive by the City of Denton, Texas, authorizing and directing the City Secretary to publish notice of such public hearings.

Ron Menguita, Long Range Planning Administrator, presented information on the request for annexation which would set a time, date and location for the beginning of the annexation process. He reviewed the background information on the property, proposed zoning and the annexation schedule.

Council Member Wazny motioned, Council Member Briggs seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2017-160

- D. ID 17-636 Consider adoption of an ordinance accepting competitive proposals and awarding a three (3) year contract for the supply of hot mix asphalt concrete and the lay down of the asphalt for the City of Denton Street Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 6386-awarded to Jagoe-Public Company, in the three (3) year not-to-exceed amount of \$20,000,000 for Sections A and C and The Lane Construction Corporation in the three (3) year not-to-exceed amount of \$9,000,000 for Sections B and D for a three (3) year total not-to-exceed amount of \$29,000,000).

Galen Gillum, Interim Director of Capital Projects, provided background information on the request for hot mix asphalt concrete and the lay down of the asphalt for various city projects. He reviewed what the material was used for, the service provided, examples of streets, results achieved from the contracts, and allocation of funding.

Mayor Pro Tem Bagheri motioned, Council Member Wazny seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Briggs "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

7. PUBLIC HEARINGS

Resolution R2017-022

- A. ID 17-532 Hold a public hearing and consider approval of a resolution regarding the proposed site for construction, expansion, and use of an electric power transmission line generally located in an area bounded by Bernard Street (western boundary), Eagle Drive (northern boundary), S Locust Street and W Collins St. (eastern boundary), and W Collins Street (southern boundary) lying within the City of Denton, Denton County, Texas; as part of Denton Municipal Electric's service territory. [Eagle to Locust Transmission Line]

Phil Williams, General Manager-DME, provided information on the Eagle to Locust Transmission Line, He reviewed the Executive Summary consisting of problems with the current infrastructure, route alternatives and differences between the yellow and blue route. Advantages of the blue route were noted.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council discussed the differences between the two options; types of trees that would be removed with the different routes; differences between the current poles and the ones that would be used for this project; new technology for the substation; and the recommendation from PUB.

Council Member Gregory motioned, Council Member Ryan seconded to approve the resolution authorizing the Blue Route. On roll call vote, Mayor Pro Tem Bagheri "aye", Council Member Wazny "aye", Council Member Gregory "aye", Council Member Hudspeth "aye", Council Member Ryan "aye", and Mayor Watts "aye". Council Member Briggs "nay". Motion carried with a 6-1 vote.

- B. ID 17-570 Hold a public hearing inviting citizens to comment on the City of Denton's 2017 Action Plan for Housing and Community Development.

The Mayor opened the public hearing.

Barbara Ross, Community Development Manager, stated that the public hearing was a requirement to receive comments from the public on the Action Plan.

No one spoke during the public hearing.

The Mayor closed the public hearing.

There was no action required on this item at this time.

8. CONCLUDING ITEMS

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Briggs requested a discussion on the controlling ordinance for EDP Board nominations as there were two non-Council members on the Board.

Council Member Briggs requested a Work Session on the Mobility and Bike Plan.

Council Member Briggs requested a list of employees who have left the City, reasons for leaving, their salaries at the time of leaving along with who was hired in their place and their salaries.

Council Member Briggs requested a timetable for the Bolivar Street project.

Council Member Briggs requested a ratio of new versus old police vehicles and how they fit together.

Council Member Ryan requested a staff report on the difference between manufactured housing verses mobile homes.

Council Member Ryan requested a report on updating the code regarding weight limitations on trash receptacles.

Mayor Watts requested an update on the Mobility Plan in terms of Mr. Donnelly's property.

Mayor Watts requested information on the funding of a football field in SE Denton.

Council Member Hudspeth requested information on a walkway to Ryan High School including a list or map of state highways within the city limits.

Council Member Hudspeth requested information on what steps could be incorporated to limit the need of the officers to go back to a central location to update their reports.

B. Possible Continuation of Closed Meeting topics, above posted.

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 9:02 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS